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March 17, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: Amendment of Section 73.202(b),  
FM Table of Allotments  
MM Docket No. 97-26; RM-8968  
(Detroit, Texas)

Dear Mr. Caton:

Transmitted herewith on behalf of K95.5, Inc. is an original and four copies of its counterproposal proposing the allotment of Channel 294C2 at Antlers, Oklahoma.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

  
John F. Garziglia

Enclosure

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MAR 17 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

For or Deletion  
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MAR 17 1997

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 97-26  
Table of Allotments, ) RM-8968  
FM Broadcast Stations. )  
(Detroit, Texas) )

To: Chief, Allocations Branch

**COUNTERPROPOSAL**

K95.5, Inc., by its attorneys, pursuant to Notice of Proposed Rule Making, DA 97-114, released January 24, 1997, hereby submits its counterproposal in the above-referenced proceeding. It is proposed that Channel 294C2 be allotted to Antlers, Oklahoma, as the community's first local aural transmission service.<sup>1/</sup> Antlers, Oklahoma is an incorporated community, with a 1990 U.S. census population of 2,461 persons. K95.5, Inc. has a present intention to apply for this channel if allotted, and if authorized, to build a station promptly.

Antlers, Oklahoma is a "community" for allotment purposes, in accordance with the Commission's policy. The requirement of an allocation to a community is generally satisfied if the community is either incorporated or listed in the U.S. Census. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 100 (1982); Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Cleveland and Ebenezer, Mississippi), 10 FCC Rcd 8807 (1995). In addition to being listed in the 1990

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<sup>1/</sup> As shown in the attached channel study, Channel 294C2 may be allotted to Antlers, Oklahoma at reference coordinates of 34° 09' 47" North Latitude, 95° 26' 44" West Longitude, a site 17.8 kilometers (11 miles) east southeast of Antlers.

U.S. Census (population 2,461), Antlers, Oklahoma is also an incorporated city with its own mayor, city council, police department, volunteer fire department and post office. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982)(it is sufficient that the community is incorporated for allotment purposes); Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Asbury, Iowa), 5 FCC Rcd 5712 (1990)(public interest would be served by allotting to a community that is incorporated and self-governing). Further, there are several churches, grocery stores, banks, restaurants, and other businesses and organizations that serve the community of Antlers, Oklahoma. Many of these businesses and organizations incorporate the community's name in its business or organization name (e.g., Antlers Agri-Supply, Antlers Auto Sales, Antlers Family Dental Clinic, Antlers Funeral Chapel, Antlers Nursing Authority, Antlers Livestock Auction Inc. Antlers Senior Citizens Center, Antlers Veterinary Clinic). See Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Kenansville, Florida), 10 FCC Rcd 9831 (1995)(existence of a number of organizations incorporating the community's name indicative of community status).


The allotment of Channel 294C2 to Antlers, Oklahoma should be preferred over the proposed allotment of channel 294C2 to Detroit, Texas. Each community has a need for first local service so therefore the communities are equal under priority 3 of the guidelines set forth in Revision of FM Assignment Policies

and Procedures, 90 FCC 2d 88 (1982).<sup>2/</sup> It is well settled that when choosing between proposed allotments for two communities when each proposal would provide a first local aural transmission service, the Commission bases its decision on a community population comparison. See Blanchard, Louisiana and Stephens, Arkansas, 10 FCC Rcd 9828, 9830 (1995) (allotment awarded to the larger of two communities where both are deserving of first local transmission service); Stanford and Whitesboro, New York, 7 FCC Rcd 1674 (1992) (larger of two communities receives the allotment). Thus, Antlers, Oklahoma, with a population of 2,461 persons, should be preferred to Detroit, Texas with a population of 706 persons.

WHEREFORE, for the reasons above, Channel 294C2 should be allotted to Antlers, Oklahoma as its first local aural transmission service.

Respectfully submitted,

K95.5, INC.

By:   
John F. Garziglia  
Patricia M. Chuh  
Its Attorneys

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(202) 296-0600

March 17, 1997

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<sup>2/</sup> The priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters [co-equal weight given to priorities (2) and (3)].

PEPPER & CORAZZINI L.L.P.  
Washington D.C. 20006

New Allotment to Antlers, Oklahoma  
Reference Site 17.8 kilometers / 11 miles ESE of Antlers

REFERENCE		CLASS C2	DISPLAY DATES
34 09 47 N			DATA 02-28-97
95 26 44 W		Current rules spacings	SEARCH 03-14-97
----- CHANNEL 294 -106.7 MHz -----			

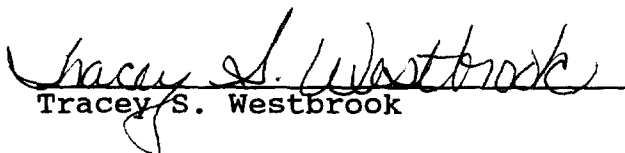
CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
AD294	294C2	Detroit	TX	174.3	38.12	190.0	-151.88 *
KCMA.C	293C3	Holdenville	OK	313.5	117.06	117.0	0.06 <
KYNZ	294A	Lone Grove	OK	273.3	166.21	166.0	0.21 <
KHTT	295C	Muskogee	OK	351.3	190.69	188.0	2.69 <
KKBI	291C2	Broken Bow	OK	81.2	61.77	58.0	3.77
KCMA.A	293C3	Holdenville	OK	310.6	129.25	117.0	12.25
KCMA	293A	Holdenville	OK	319.5	131.06	106.0	25.06
KOMS	297C	Poteau	OK	47.4	132.38	105.0	27.38
KWSK	295A	Daingerfield	TX	152.5	140.48	106.0	34.48
KLBC	296A	Durant	OK	259.0	91.87	55.0	36.87
KLBC.A	296A	Durant	OK	259.0	91.87	55.0	36.87
KRVAFM	295A	Mckinney	TX	227.2	146.19	106.0	40.19
KOOI	293C	Jacksonville	TX	177.0	233.44	188.0	45.44

**CERTIFICATE OF SERVICE**

I, Tracey S. Westbrook, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that true copies of the foregoing "Counterproposal" were sent this 17th day of March, 1997 by U.S. first class mail, postage prepaid, to the following:

\* Pamela Blumenthal  
Allocations Branch  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Fifth Floor  
Washington, D.C. 20554

William J. Pennington, III, Esquire  
P.O. Box 403  
Westfield, MA 10186  
(Counsel to Great Plains Radiocasting)

  
Tracey S. Westbrook

\* Via Hand Delivery